



Assessing the Positions of the Caspian Sea Littoral States (1991- 2013)

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Abstract

In recent history of the Caspian Sea, Iran and Soviet Union have played a major role in creating governing principles regarding the use of sea. Although, there were some customary procedures for the use of the sea, legal principles governing the sea were derived from the agreements concluded by these two countries. The system in international law of the sea is pursuant to the UN conventions on the law of the sea (1958 and 1982 Geneva conventions), but these two conventions have not assessed the subject of enclosed seas. In other words, the legal system of the Caspian Sea has not been defined based on the definitions in current conventions on the law of the sea, but it has firstly been determined according to the agreements and treaties concluded between two sea littoral states, Iran and Soviet Union. After the dissolution of the Soviet Union in 1991, the agreements and treaties concluded among the new states (formed around the Caspian Sea) and Iran determine the legal system of this sea. Considering the importance of Caspian Sea for its littoral states, the main purpose of this paper is to assess the positions of these states regarding the sea since 1991 to 2013. Indeed, disagreement of the Caspian Sea littoral states on a legal regime has caused many problems to be emerged in terms of extraction energy resources such as oil and gas and use of fishery resources. Also, the environmental problems (such as pollution) resulted from disagreement on a legal regime threaten the life of Caspian Sea, the world's largest lake.

Keywords: littoral states, legal regime, the Caspian Sea, the law of the sea.

Introduction

As an important geopolitical region of the world, the Caspian Sea has found importance for its littoral states economically and geographically¹. For rationally benefiting the Caspian Sea resources, it is needed to develop and define specific legal-economic foundations using social political relations². The purposes of determining the legal regime of the Caspian Sea are to justly share the interests of this sea among the Caspian states based on the accepted criteria and exactly determine the scope of states for exploitation of the resources to prevent unidirectional profit seeking³.

The regional integrations such as the Shanghai Pact can be considered as positive steps in this regard. Since it is prioritized to economic empowerment and the ability to control the supply of economic goods in 21st century, strategically and geopolitically, the Caspian region has converted into one of the most important parts of the world in recent years and this has caused the region to draw the attention of regional powers and global superpowers⁴. The oil resources of this region has added to its geopolitical importance and caused it to be the spotlight of premier diplomatic and economic activities⁵.

With the active cooperation and participation of the Caspian Sea littoral states, the sea can dramatically be converted into a major exporter of crude oil to the world energy markets in near future⁶. To achieve the goal, it is needed to determine the legal regime of the Caspian Sea, because disagreement about the legal regime

has caused the sea resource development to become a complicated issue and as a result, its resources cannot be well exploited⁷.

There is a long and historical relation between Iran and the Caspian Sea. This intimate relationship has being lasted since 2500 years ago⁸. The Caspian Sea coast has always been the housing of various Iranian ethnic groups, especially on the eastern, western and southern coast of the sea. In different historical periods, tribes such as Caspians, Khazarians, Amardians, and so forth have been settled around the sea and as a result, different names are applied for the sea such as Mazandaran, Tabarestan, Rasht, Qazvin, and so forth during its history which the names show the continuous and effective relationship between the various tribes and the sea⁹. The Caspian Sea does not have natural waterway open seas or oceans and it is only connected to the Black Sea through a channel built upon the Volga River. As mentioned above, the Caspian Sea has taken several names for its geographical location and historical events. Its oldest name had been "Hyrcana" which has been changed into "Tabarestan", "Abeskun", "Qazvin", "Deilam", "Gorgan", "Sari", and "Mazandaran". Europeans called it "Caspian sea" due to the adjacency of Caspian tribe to the sea. In Iran, "Khazar Sea" is the most common name used for the sea which is taken from the name of Khazar tribe lived near the sea¹⁰.

The history of Caspian Sea includes many various events. Among the notable events in recent centuries, it can be cited to

the contracts signed in 1732 and 1735 between Russia and Nader Shah which under these contracts, Russia evacuated all held areas of Iran except Baku and Derbent currently located in the Dagestan Republic of Russia¹¹.

Since the beginning of the nineteenth century, Alexander, Emperor of Russia, intended to revive Russian influence in the Caucasus; therefore, he sent troops to the Caucasus. This caused a confrontation between Iran and Russia which their aftermaths were two treaties of Golestan and Turkmanchay¹². Under these two treaties, Iran lost all its territories in the Caucasus and beyond including Derbent, Ganje, Baku, Georgia, Yerevan, Nakhchivan and Karabakh. Also, shipping was limited for Iran on the Caspian Sea¹³.

Main Hypothesis: It seems that the littoral states of Caspian Sea have failed to reach a consensus on sharing and exploitation of the sea.

Sub-Hypothesis: It seems that economic and geopolitical factors of the Caspian Sea and the impact of using the resources of the sea on beneficiary countries' economies have caused differences in interests and views of the littoral states.

It seems that the lack of proper coordination and cooperation between Russia and Iran has caused to boost the militarization morale in the Caspian Sea.

It seems that apparent involvements of America and European countries in the region, abuse of economic weakness of newly independent countries, coveting the region's vast energy, and multilateral pressure on Russia have caused failing to reach a consensus in the region.

It seems that self-reliance, active collaboration and participation of the Caspian Sea littoral states can lead to develop an acceptable legal regime of the Caspian Sea in the future.

Methodology

In this study, a descriptive analytical method is used and the data are collected through studying and comparing different literature, papers, books, and various references¹⁴.

Results and Discussion

Assessing the votes of various countries on division of the Caspian Sea: Russia votes: After the dissolution of the Soviet Union, Russians implement flexibility in their foreign policies; as a result, they show flexibility regarding the legal regime of the Caspian Sea as well¹⁵. For example, Viktor Kaliuzuniy, an active and veteran Russian diplomat as well as plenipotentiary representative of the Russia President, thinks his country's national interests in the Caspian Sea through adopting a pragmatic policy¹⁶. He applies any manner to accrue the greatest benefits to Russia and does not hesitate to change or adjust their

positions. He always praises the agreements at the end of the Caspian working groups meetings and considers the meetings positive steps, but does not state the place and time of finalizing the deal¹⁷.

The statements of Russia's deputy minister of foreign affairs at the end of previous Caspian working groups meetings can be noted as another example for flexibility of Russia foreign policies. For example, he has stated "We wish to do more work in this area and this interest can help us to work harder to achieve more appropriate solutions"¹⁸.

At the end of the 12th working groups meeting in Tehran-Iran, Kaliuzuniy indicating the trend followed for determining the legal regime of the Caspian Sea in recent years stated "today is the time that we can feel comfortable after the eleven meetings of the working group. I believe that we should complete the work, although we know it is very difficult to traverse this route. It has been reached an agreement on 60% of the convention provisions and this is a victory that we have gained"¹⁹.

In term of military aspect, according to the modernization fundamentals of the Russian Federation armed forces announced by Vladimir Putin (the president of the Russian Federation) in his annual message and according to the overriding goals of restoring forces expressed by Minister of Defense in November 2003, power development in the Caspian Sea will continue to defend water borders. Now, the Caspian fleet air force includes modernized helicopters of mi-24 and mi-8 as well as Su-24 and Su-25 fighters. This force also includes new protective fleet of Tatarstan. The weakness of anti-air vehicles of Russian warships in the Caspian is compensated with strong coverage of the closed combat operations of the air force and the establishment of new systems of S-300²⁰.

Azerbaijan Votes: This country seeks to divide the entire sea based on the equator. In this case, each country has its water authority completely. In fact, Azerbaijan uses the maps of internal borders determined through Soviet fishing agreement in 1992. On the other hand, Iran believes that Azerbaijan is one of problematic countries in the Caspian region, because this country has been extracting oil from different parts of the Caspian since many years ago and its proximity to Russia and Iran has not caused any changes in Baku's inflexible positions regarding its water borders in the Caspian. Azerbaijan apparently shows friendly policies regarding Iran and Russia, but it always thinks of its own profits²¹.

On the other hand, as Iran does not believe in Azerbaijan as a neighboring country with common interests in the Caspian, Azerbaijan does not believe in Iran positions regarding the Caspian interests. This conflict has caused both countries not to reach any agreement regarding the Caspian.

According to the experts, Azerbaijan includes the second military fleet in the Caspian; also, it continues to complete its

national naval and border force with the help of the United States and Turkey; as a result, the individuals' number of naval force has increased from 2500 to 3000 people. This shows Azerbaijan seeking supremacy policies in the Caspian to achieve its interests²².

Turkmenistan votes: Turkmenistan shows an ambiguous policy, but this country has to show its real and clear positions regarding the Caspian. The country signed a contract with Azerbaijan to divide the Caspian Sea based on the middle line in 1997, but in practice, they were disagreed regarding the contract terms especially in the case of Kapaz oil field. Therefore, Turkmenistan has suggested that the countries consider the latitude of 45 miles for their exclusive use and share the rest water of the Caspian Sea. The other suggestion is to form summit of Caspian states²³.

Although Turkmenistan has not been aligned with Russia, Azerbaijan, and Kazakhstan in multilateral negotiations and has a tendency to Iran, some political and economic considerations such as the need for economic development, power transmission lines to the foreign countries, and regional and international integration with CIS countries and Russia have caused this country not clarify its positions regarding the Caspian's interests. Hence, Turkmenistan has not submitted a codified policy to which it is committed. However, this country tries other ways to achieve its goals in the Caspian; for example, in 2004, it purchased 10 Kalkan and 10 Griffin frigates from Ukraine. Also, it established water zone protection brigade in Turkmenbashi and increased the individuals' number of naval force to 3000 people which it shows the tendency of this country for using the military force instead of diplomacy²⁴.

Kazakhstan votes: This country has signed a border delimitation agreement with Russia on June 6, 1998. According to the last statement by the leaders of Russia and Kazakhstan (October 9, 2000), both countries agreed on 1921 and 1940 agreements as the basis up to determination of a new legal regime which must be developed with agreement of all 5 countries. Kazakhstan believes that due to the length of legal negotiations, it is firstly needed to carry out ecological acts to prevent the extinction of the sturgeon fish.

Due to peaceful nature of Kazakhstan coastal region and shallow but rich oil beaches, it is the only country that has achieved its goals in the Caspian. In fact, signing a bilateral agreement with Russia and a trilateral agreement with Azerbaijan have caused the fate of the north part of the Caspian to be quite clear and to determine the fate of north part of the Caspian, it is needed to consider the agreements regarding the north part too.

In term of military aspect, Kazakhstan benefits a newly established naval force. In Aktau and Atyrauports, construction of docks for ships and frigates continues and the individuals' number of naval force is increasing. Also, some frigates and 4

patrol frigates are purchased from Ukraine which they have been deployed in the Caspian.

Iran votes: In practice, the Caspian Sea is a great lake because of its being enclosed; therefore, its regulations are determined by its littoral states. On the other hand, many important issues are proposed regarding the Caspian which Iran and Russia have reached agreements on most of them. Therefore, this consensus caused both countries perform their common goals such as avoiding the interference of other non-coastal countries in the Caspian and preventing military and civilian vessels of other countries from entering to this water. However, there is serious dispute between Iran and other littoral states regarding the reservoirs under the Caspian Sea. Iran believes that one fifth of the Caspian's reservoirs belong to Iran. Also, some Iranian jurists believe that although this share is acceptable, after dissolution of the Soviet Union, Iran generously and hastily consented to the share and this has caused the other littoral states to misuse the situation and dispute on this natural share of Iran. They believe that historical contracts between Iran and Russia (1921 and 1940) include the interpretations clearly showing the legal positions of Iran regarding the Caspian. The jurists believe that if Iran did not hastily consented to the share of one fifth, it could obtain more shares of the Caspian Sea and would not have to attempt to make other countries to accept this small share. Therefore, Iran always emphasizes on its positions as sharing everything among 5 littoral states of the Caspian Sea, Iran 20% share of anything divided in the Caspian Sea such as reservoirs under the sea, and insisting on the contracts of 1921 and 1940²⁵.

One of the main reasons caused Iran encounter problem regarding its share in the Caspian Sea is Russia dual, unfriendly and questionable policy. In fact, Russia mostly has left Iran alone in this regard and has supported its new neighbors. In fact, this act of Russia recalls its traditional way of dealing with Iran. As a result, countries closer to Iran tried to encroach on the oil regions near Iran part and Iran had to use its military force to show its seriousness in defense of the national interests in 1998. However, later those countries understood Iran seriousness and showed friendly acts and stopped their exploitation activities in the area of Iran 20% share.

After studying the history of the Caspian Sea, the relations and contracts between Iran and Russia (and Soviet Union) as well as Iran and newly independent states, comments of the littoral states, and the impact of other countries on the process of dividing the Caspian's interests, the following results are concluded:

The regime of using the Caspian Sea should be legal to minimize the problems and optimize the productivity of Caspian resources and interests. To achieve a fair legal regime and preserving the integrity and unity of the country, Iran needs to activate its foreign diplomacy system regarding the Caspian, benefit experts, resolve conflict in regional and global

dimensions, and give priority to national resources.

The main problem regarding the legal regime is how to divide the resources and interests of the Caspian Sea. In this regard, Iran's standpoints are based on security-economic considerations, the general terms of 1921 and 1940 contracts, and obtaining 20% of water surface and under water reservoirs. Also, it is strongly emphasized that the littoral states do not use their own interests and range against each other and do not allow the other foreign countries to be in the Caspian and misuse its resources²⁶.

After the dissolution of the Soviet Union in 1991 and the emergence of newly independent countries, multinationals companies entered the sea to explore and exploit oil and gas resources. This caused the increase of competition among the littoral states and trans-regional powers. America magnifying the resources of the Caspian and stating the region's oil and gas reserves about 200 billion barrels, has attempted to benefit its world position to justify its presence in the sea. In this regard, America is not alone and countries such as Turkey and Israel as America's allies have participated in military maneuvers in this region. Anyhow, the preliminary calculations of oil and gas reserves of the Caspian Sea shows that it is estimated about 30 to 40 billion barrels. Therefore, after Persian Gulf and Siberia, the Caspian Sea includes the major reservoirs of the world energy. Also, including 90% of worldwide stocks of caviar, the sea can be considered a major resource in this regard; however, in spite of such rich economic reservoirs, it is threatened by reduction of water quality, ecosystem degradation, oil and industrial pollutions, extensive oil and gas drilling in the seabed, passage of oil tankers and ships, sturgeon overfishing, discharge of toxic substances into the sea, and absence of bilateral or multilateral international cooperation²⁷.

Iran's Role: The main reasons of the Caspian's problems include the lack geopolitics resulted from dissolution of the Soviet Union, Russia's economic weakness, and restrictions on Iran's political power. Therefore, to play an effective role, Iran needs to adopt an active diplomacy in the Caspian region, deeply understand the role of regional and trans-regional powers, and maximize its political power. In fact, determination of legal regime is mostly affected by political issues rather than economic considerations and in this regard, it is obvious that America as the largest oil producer does not rely on the Caspian oil, but it attempts to effectively control the sea resources for its future.

Preventing the militarization in the Caspian Sea: The history of militarization in the Caspian dates back to contracts of 1921 and 1940, contracts under politically, internationally unequal conditions devoted the right of military fleet only to Russia. However, after dissolution of the Soviet Union, this provision of these contracts (such as its other provisions) was hurt, but Russia considering itself as elder brother of the Caucasus and Central Asia countries attempts to show itself as the only

effective power in the Caspian. Obviously, no littoral state is benefited from militarization of the Caspian. Arms race in the Caspian causes the sea to be converted into a "marine garrison". Therefore, this is a multilateral issue and military presence of a country provides the field for other countries military presence. Hence, it is important to determine the legal regime of the Caspian Sea.

Preventing bilateral contracts: Russia and other northern neighbors clarify the Caspian division issue and consider the fair access of littoral states to the resources and under water reservoirs.

Paying attention to environmental issues: The Caspian Sea environmental program (CEP) is a comprehensive issue which is developed by 5 littoral countries to stop the environmental destruction and promote the sustainable development.

The main challenges of the Caspian Sea can be mentioned as follows: Territorial, ethnic and legal disputes. The high cost of gas and oil transportation. Complex seismic and geological conditions for exploring the Caspian Sea resources. Ecological sensitivity.

According to the above issues, the Caspian Sea can be converted into one of the main centers of international disputes in the future. Past has shown that the regions with rich resources have been constantly exposed to tension. The competition among different countries for exploitation of resources can lead to instability and provide the elements necessary for long-term wars and conflicts. Also, another important reason for disagreement on a legal regime is the different benefits which can be devoted to the littoral states through different legal regimes; in other words, each legal regime could include different outcomes. For example, Azerbaijan hopes to attract big oil companies to the region through the benefits granted to it by the legal regime.

On the other hand, in the past, the cost of exploration and production of oil in the Caspian Sea was so high that only large companies could afford to take the risk, but today, modern technologies may allow small companies to succeed in this field. The Caspian oil exploration, development, extraction and shipping is very expensive and in spite of all news about the Caspian reservoirs, the sea is not full of oil and gas; in fact, only 5 fields of the Caspian can be considered as major economic fields. Three fields including Kara Chaknak, Tengiz, and Azari were discovered in the Soviet period and two fields including Guneshli and Chirag were recently discovered. Alborz field in Iran water is likely to have the same capacity, but this is only a supposition.

On the other hand, there are three important factors including oil price, political stability, and energy transmission infrastructure affecting oil production in the Caspian region.

Conclusion

Finally, it is concluded that the littoral states of Caspian Sea have failed to reach a consensus on sharing and exploitation of the sea due to insistence on their own interests and unilateral positions. This issue is affected by different factors such as economic and geopolitical factors of the Caspian Sea, the impact of using the resources of the sea on beneficiary countries' economies, the lack of proper coordination and cooperation between Russia and Iran, apparent involvements of America and European countries in the region, and abuse of economic weakness of newly independent countries.

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